

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87047184
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION	
MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/87047184/large
LITERAL ELEMENT	ABSOLUTE CBD
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
ARGUMENT(S)	
<p>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE In re Application of The Hemp Depot, LLC Serial No. 87/047,184 Robert J. Struck Trademark Attorney Filed: May 23, 2016 Law Office 109 Mark: ABSOLUTE CBD & Design REQUEST FOR RECONSIDERATION In response to the office action dated May 24, 2018, kindly allow the application or suspend the application pending the approval of the 2018 Farm Bill. The 2018 Farm Act has been passed by both houses and is currently in negotiation to amend differences in wording. CBD is an oil extract of industrial hemp which contains no or negligible amounts of THC. THC is the psychotropic substance in plant parts that are legal in nine states. It is understood that the classification of CBD has been reconsidered by the D.E.A. and that CBD or cannabidiol is listed as a Class 5 substance. There is no credible evidence shown that supports the Examining Attorney's conclusion that ?As such CBD constitutes an illegal marijuana extract or derivative.? CBD, cannabidiol, is now a stable substance of commercialization and is advertised by online retailers, for example Amazon and Walmart. Please see Exhibits 1-8, which are Amazon pages advertising CBD, Cannabidiol, ?Hemp Oil? as a relief for pain and anxiety. Twenty-nine different CBD, Cannabidiol or ?Hemp Oil? products are offered for sale in the U.S.A. without restriction by Amazon, America's largest retailer. Please see Exhibits 11-14, Walmart's online advertisements for sale of CBD, Cannabidiol or ?Hemp Oil?, anywhere in the U.S.A. without restriction. Four pages clearly list CBD for sale anywhere. Please see Exhibits 21-27. The D.E.A. moved CBD from Schedule 1 to Schedule 5. Please see Exhibits 31-37. The 2018 Farm bill that authorizes growth and sale of hemp and CBD has passed the Senate and Congress and is in negotiation between the two houses. The Examining Attorney has not cited the particular law as required by TMEP 907, next-to-last paragraph. See the underscored words in Exhibit 42. Instead, the Examining Attorney has cited the CSA ?21 U.S.C. 801 et seq.?, a long statute, and Chapter 81 of Title 41 without identifying the particular part. TMEP 907 states: ?? marijuana, marijuana extracts, and the psychoactive component TCH ? are subject to CSA's prohibitions.? See the underscored words in the first paragraph on Exhibit 42 (TMEP 907). NIH June 2018 Exhibits 43 and 44 defines marijuana as ?? the dried leaves, flowers, stems and seeds from the Cannabis sativa or Cannabis Indica plant. See the underscored description in Exhibit 43. NIH defines ?Marijuana Extracts ? [as] THC-rich resins extracted from the marijuana plant.? See Exhibit 44. CBD is neither marijuana nor THC as defined in TMEP 907, third-from-last paragraph. See Exhibit 42. NIH National Institute of Drug Abuse knows that CBD is not marijuana, marijuana extract or THC. See Exhibits 43 and 44. Amazon knows and Walmart knows that CBD is not marijuana. marijuana extract or THC described in TMEP 907. See Exhibits 1-8 and 11-14. Clearly CBD is lawful and legal for sale. Section 1 and 45 refusals do not apply. 1968, 1977 and 2000 case law does not apply. CONCLUSION Reconsideration and withdrawal of the refusal to register are requested. Respectfully, /James C. Wray/ James C. Wray, VA Bar No. 08,188 1497 Chain Bridge Road Suite 204 McLean, Virginia 22101 Tel: (703) 442-4800 Fax: (703) 448-7397 November 26, 2018</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
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DESCRIPTION OF EVIDENCE FILE	Exhibits 1-8, 11-14, 21-27, 31-37 and 41-44.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/James C. Wray/
SIGNATORY'S NAME	James C. Wray

SIGNATORY'S POSITION	Attorney of Record
SIGNATORY'S PHONE NUMBER	7034424800
DATE SIGNED	11/26/2018
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Nov 26 16:00:42 EST 2018
TEAS STAMP	USPTO/RFR-XXX.XX.XX.XXX-2 0181126160042845959-87047 184-6101725259e58250ee686 f68bafec0fedff57be05ac6ff 387ee15ed33843ebbe1e-N/A- N/A-20181126155627935170

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Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **87047184** ABSOLUTE CBD (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/87047184/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE In re Application of The Hemp Depot, LLC Serial No. 87/047,184 Robert J. Struck Trademark Attorney Filed: May 23, 2016 Law Office 109 Mark: ABSOLUTE CBD & Design REQUEST FOR RECONSIDERATION In response to the office action dated May 24, 2018, kindly allow the application or suspend the application pending the approval of the 2018 Farm Bill. The 2018 Farm Act has been passed by both houses and is currently in negotiation to amend differences in wording. CBD is an oil extract of industrial hemp which contains no or negligible amounts of THC. THC is the psychotropic substance in plant parts that are legal in nine states. It is understood that the classification of CBD has been reconsidered by the D.E.A. and that CBD or cannabidiol is listed as a Class 5 substance. There is no credible evidence shown that supports the Examining Attorney's conclusion that ?As such CBD constitutes an illegal marijuana extract or derivative.? CBD, cannabidiol, is now a stable substance of commercialization and is advertised by online retailers, for example Amazon and Walmart. Please see Exhibits 1-8, which are Amazon pages advertising CBD, Cannabidiol, ?Hemp Oil? as a relief for pain and anxiety. Twenty-nine different CBD, Cannabidiol or ?Hemp Oil? products are offered for sale in the U.S.A. without restriction by Amazon, America's largest retailer. Please see Exhibits 11-14, Walmart's online advertisements for sale of CBD, Cannabidiol or ?Hemp Oil?, anywhere in the U.S.A. without restriction. Four pages clearly list CBD for sale anywhere. Please see Exhibits 21-27. The D.E.A. moved CBD from Schedule 1 to Schedule 5. Please see Exhibits 31-37. The 2018 Farm bill that authorizes growth and sale of hemp and CBD has passed the Senate and Congress and is in negotiation between the two houses. The Examining Attorney has not cited the particular law as required by TMEP 907, next-to-last paragraph. See the underscored words in Exhibit 42. Instead, the Examining Attorney has cited the CSA ?21 U.S.C. 801 et seq.?, a long statute, and Chapter 81 of Title 41 without identifying the particular part. TMEP 907 states: ?? marijuana, marijuana extracts, and the psychoactive component TCH ? are subject to CSA's prohibitions.? See the underscored words in the first paragraph on Exhibit 42 (TMEP 907). NIH June 2018 Exhibits 43 and 44 defines marijuana as ?? the dried leaves, flowers, stems and seeds from the Cannabis sativa or Cannabis Indica plant. See the underscored description in Exhibit 43. NIH defines ?Marijuana Extracts ? [as] THC-rich resins extracted from the marijuana plant.? See Exhibit 44. CBD is neither marijuana nor THC as defined in TMEP 907, third-from-last paragraph. See Exhibit 42. NIH National Institute of Drug Abuse knows that CBD is not marijuana, marijuana extract or THC. See Exhibits 43 and 44. Amazon knows and Walmart knows that CBD is not marijuana. marijuana extract or THC described in TMEP 907. See Exhibits 1-8 and 11-14. Clearly CBD is lawful and legal for sale. Section 1 and 45 refusals do not apply. 1968, 1977 and 2000 case law does not apply. CONCLUSION Reconsideration and withdrawal of the refusal to register are requested. Respectfully, /James C. Wray/ James C. Wray, VA Bar No. 08,188 1497 Chain Bridge Road Suite 204 McLean, Virginia 22101 Tel: (703) 442-4800 Fax: (703) 448-7397 November 26, 2018

EVIDENCE

Evidence in the nature of Exhibits 1-8, 11-14, 21-27, 31-37 and 41-44. has been attached.

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[Evidence-3](#)

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[Evidence-5](#)

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[Evidence-8](#)

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Converted PDF file(s) (4 pages)

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[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /James C. Wray/ Date: 11/26/2018

Signatory's Name: James C. Wray

Signatory's Position: Attorney of Record

Signatory's Phone Number: 7034424800

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent

not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 87047184

Internet Transmission Date: Mon Nov 26 16:00:42 EST 2018

TEAS Stamp: USPTO/RFR-XXX.XX.XX.XXX-2018112616004284

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☐ NakedOil
☐ Edens Garden
☐ Rocky Mountain Hemp Co.
☐ Miracle Botanicals
☐ Nutiva
☐ Smart Health Labs
☐ NatulabUSA
☐ Penetrex
☐ Absolute Nutrition
☐ Manitoba Harvest
☐ Manitoba Harvest Hemp Foods
☐ Dr. Angela's Guardian
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Health & Personal Care Dietary Speciality
☐ Organic
☐ Natural
☐ Gluten-Free

Health & Personal Care Format
Soft-Gels
Creams
Capsules

Gender
Men's

Ex. 1

Skin Type

Dry

Skin Care Concern

- ☐ Acne, Blemishes & Blackheads
☐ Anti-Aging

Health & Personal Care Feature

- ☐ Organic
☐ Natural
☐ Homeopathic
☐ Aromatherapy

See more

Avg. Customer Review

& Up

& Up

& Up

& Up

Price

Under \$25

\$25 to \$50

\$50 to \$100

\$100 to \$200

\$200 & Above

\$ Min

\$ Max

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Seller

- ☐ Amazon.com
☐ Restorative Botanicals
☐ Health Begins Here
☐ Big-Sale-Store
☐ Biggerbuys
☐ Food Station
☐ iHerb Inc.
☐ OxKom
☐ etailz
☐ VitaCore Nutrition

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Availability

- ☐ Include Out of Stock

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 cannabidiol for pain" in our
 Beauty & Personal Care
 Store (33)



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Hemp Oil Drops :: Fast Pain Relief ::
Natural Extract...

244

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(2 Pack) Hemp Oil for Pain Anxiety
Relief (500mg | 30ml...

110

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with Anxiety, Chronic...

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Stress Relief -...

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Hemp Oil for Pain Relief - Stress
Support, Anti Anxiety...

939

\$23⁷²

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Hemp Oil 1000mg :: Hemp Oil for
Pain :: Stress Relief...

122

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EX.2

 <p>Hemp Oil Drops for Pain, Anxiety & Stress Relief - 2500mg... 140</p> <p>FREE Shipping on eligible orders and 4 more promotions</p> <p>\$31.49</p> <p>Get it by Fri, Nov 23</p> <p>Add to Cart</p> <p>More options available: \$27.99 Other Sellers</p>	<p>Amazon's Choice</p>  <p>Full Spectrum Hemp Oil for Pain, Anxiety & Stress Relief... 120</p> <p>FREE Shipping on eligible orders and 4 more promotions</p> <p>\$21.75</p> <p>Subscribe & Save</p> <p>Get it by Tomorrow, Nov 20</p> <p>More options available: \$22.89 \$17.94 Other Sellers</p>	 <p>Hemp Oil Drops (5000MG) - Best Natural Hemp Seed oil... 81</p> <p>FREE Shipping on eligible orders and 3 more promotions</p> <p>\$41.95</p> <p>Get it by Fri, Nov 23</p> <p>Add to Cart</p> <p>More options available: \$38.94 Other Sellers</p>
<p>Best Seller</p>  <p>Penetrex Pain Relief Therapy [2 Oz] - Apply Penetrex... 24,037</p> <p>\$18.97 (\$9.48/Ounce) \$29.95</p> <p>Get it by Tomorrow, Nov 20 FREE Shipping on eligible orders</p> <p>Add to Cart</p>	 <p>Hemp Oil Anti-Inflammatory Pain Relief...100% Pure_Cold... 2,142</p> <p>\$18.99</p> <p>Subscribe & Save</p> <p>Get it by Tomorrow, Nov 20</p> <p>More options available: \$19.99 FREE Shipping on eligible orders</p>	 <p>Hemp Oil Extract (250mg) - for Pain Relief and Anti-Anxiety... 433</p> <p>\$21.99</p> <p>Get it by Tomorrow, Nov 20 FREE Shipping on eligible orders</p> <p>Add to Cart</p>

EX-3



Hemp Oil for Pain & Anxiety Relief -
500mg Full Spectrum...

124

\$29⁹⁹ ~~\$39.99~~

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FREE Shipping on eligible orders

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(2 Pack) Hemp Oil for Pain Anxiety
Relief (500mg | 30ml...

110

Save **\$2.00** with coupon
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Hemp Oil 750mg Premium Full
Spectrum for Pain Relief...

57

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Premium Stress...

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Daily Hemp Co. Super Hemp Oil,
Hemp Extract Drops, For...

40

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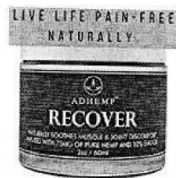
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Ultra High Strength Hemp Oil for
Pain and Anxiety Relief...

129

\$89⁴⁵

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EX. 4



ADHEMP DR. Recommended Organic Hemp Pain Relief Therapy...

228

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Serenity Hemp Oil - 4 fl oz 1000 mg (Orange) - Certified...

247

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\$89⁹⁹

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Ultra Hemp 500 with 500 mg of Hemp Extract Reduces Pain...

473

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See Size Options

Manitoba Harvest Hemp Oil Soft Gels, 1000 mg; 120 Count

246

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\$9.85 Add-on Item



See more choices

Organic Hemp Oil (450mg) for Pain, Anxiety & Stress...

208

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FREE Shipping on eligible orders See Details

\$18⁹⁹

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Add to Cart



Organic Hemp Oil Drops 500mg - Premium Pain Relief Anti-Inflammatory...

339

Save \$2.00 with coupon

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74

\$37⁴⁷ (\$18.73/Fl Oz)

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Hemp Oil for Pain & Anxiety Relief - 2500mg - Organic...

31

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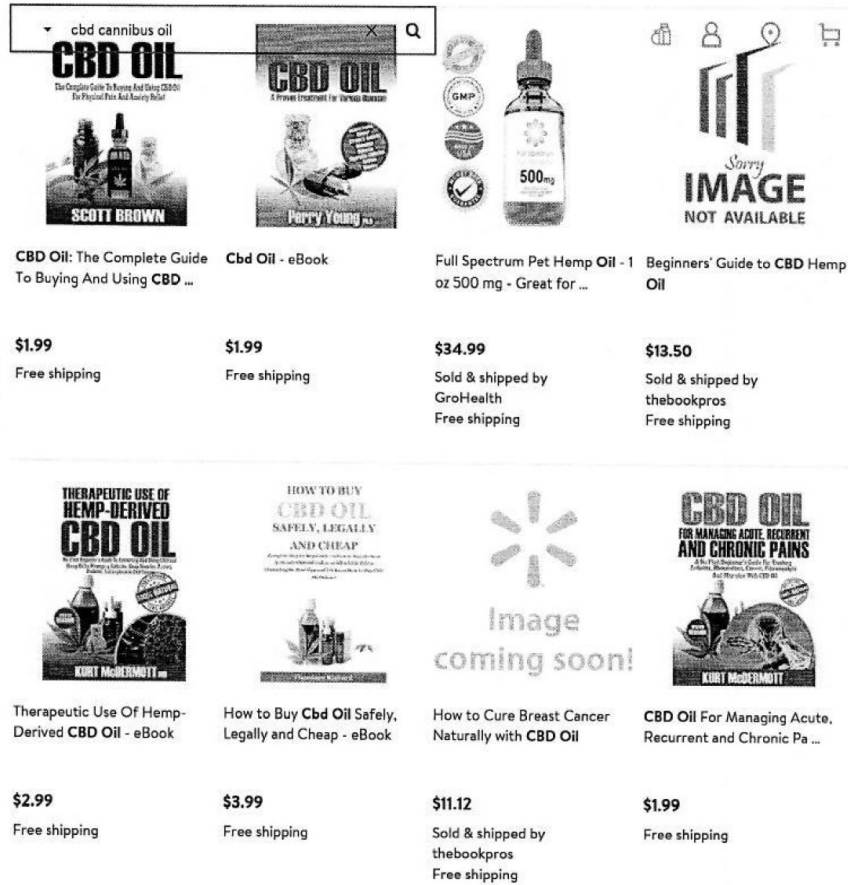
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Ex. 14

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DEA moves some CBD medicines off Schedule 1, a limited expansion of cannabis access


Published September 27, 2018 | By Hemp Industry Daily staff
(</about-us/staff/#editorial-staff>)


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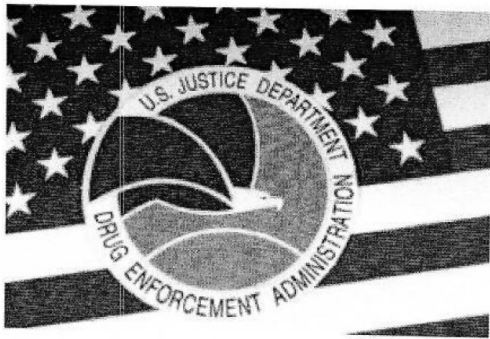
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(This is an abridged version
of a story that appears

Ex-21

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(<https://hempindustrydaily.com/>.)

The U.S. Drug Enforcement Administration has taken some cannabidiol out of the most restrictive class (<https://hempindustrydaily.com/wp-content/uploads/2018/09/DEAEpidiolex-Opinion.pdf>) of controlled substances, a move that allows the sale of the first nonsynthetic, cannabis-derived medicine to win federal approval.

It's a decision that immediately affects CBD producers but also signals the agency's first admission that the plant has medical value.

The DEA announced Thursday that drugs including CBD with THC content below 0.1% are now considered Schedule 5 drugs, as long as they have been approved by the U.S. Food and Drug Administration.



(<https://adbutler-fermion.com/redirect.spark?>

[MID=172085&plid=852953&setID=299585&channelID=0&CID=0&banID=519639192&PID=0&textadID=](#)
It is the first time the agency has lowered any type of cannabis from Schedule 1.

Ex. 22

The action came three months after the FDA approved its first nonsynthetic, cannabis-derived medicine, a CBD preparation for rare types of epilepsy. The drug, Epidiolex, is made from cannabis grown in the United Kingdom.

The DEA announcement means Epidiolex will be distributed through traditional pharmaceutical channels, from a doctor's prescription to a drug store, instead of through a medical marijuana dispensary or designated MMJ caregiver.

Marijuana businesses cheered the DEA change as a signal that opposition to cannabis is starting to crumble.


"We're one step closer to finally ending prohibition and legitimizing the industry," said James Minutello, CEO of Leaf Logix, a Glendale, California, company that makes business management software for the cannabis industry.


To read more about how the DEA action affects the broader CBD industry, [click here \(https://hempindustrydaily.com/dea-takes-cbd-off-schedule-1-with-fdas-approval/\)](https://hempindustrydaily.com/dea-takes-cbd-off-schedule-1-with-fdas-approval/).


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EX. 23

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29 comments on "DEA moves some CBD medicines off Schedule 1, a limited expansion of cannabis access"

Eric Geisterfer on September 27th, 2018 - 3:28pm

(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237618>)

Unfortunately, we are not "one step closer to finally ending prohibition". Artisanal and small companies do not have the resources to pay for FDA style approval. What we are is one step closer to assuring that large pharmaceutical companies can dominate the federal medical marijuana industry. That's why the pharmaceutical industry spends more on lobbying than any other industry.

REPLY

Shira Adler on September 27th, 2018 - 5:29pm

(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237636>)

Absolutely right! I wish my usual indomitable Pollyanna nature could see this as a good thing. It is not.

Let's be real folks... those of us who are actually in this industry for the right reasons, and supporting each other in the right way... are very clear... Rescheduling is NOT the answer. Doing so only puts big Pharma in the driver's seat, limits patient access, stymies small businesses, and demonstrates little focus and support for the farmers who are genuinely and passionately committed to organic and sustainable practices.

This move by the DEA also does not authentically or even adequately address or benefit the hemp movement, nor does it address the myriad needs we hope would be ratified in the current proposed hemp / agricultural bill.

Ex-24

The only solution here is to DESCHEDULE and that must be done in partnership with decriminalization and expunging records of those carrying minor (possession) drug offenses.

Then we can comfortably say we are united in this, a bi-partison issue — standing together in — and doing what is ethical, practical, and necessary where cannabis is concerned.

ps I do a lot of discussion on this in my book, The ABCs of CBD, if anyone cares to read it... forgive the mention of it... not meant as a "plug" as much as I wrote it to be a legitimate (and open-hearted) resource.

REPLY

Rommie on September 27th, 2018 - 10:58pm
(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237683>)

I disagree the wheels of bereaucracy turn ever so slowly this is a huge step towards decriminalization

REPLY

Richard Moschetti on September 28th, 2018 - 11:21am
(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237772>)

Legalization and tax like Alcohol and Tobacco. PRESIDENT TRUMP can do this.

REPLY

Richard Moschetti on September 28th, 2018 - 11:24am (<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237774>)

The US Government will make Trillions of Dollars from its tax Instead of wasting BILLIONS TO STOP MARIJUANA FROM BEING ANTI-MARIJUANA...TRYING TO FIGHT LEGALIZATION

REPLY

Roland on September 29th, 2018 - 10:32pm
(<https://mjbizdaily.com/dea-moves-cbd-medicines->

Ex. 25

off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237933)

"Tax & Regulate" is how we got in this mess in the first place.

See Wikipedia for "Marihuana_Tax_Act_of_1937".

Those who ignore history are doomed to repeat it.

REPLY

Tim on October 2nd, 2018 - 6:50am

(https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-238197)

Actually ur wrong, it was used as an excuse for racism against blacks and hispanics gave the government a reason to arrest, detain, and search them...look it up this was all apart of the head of dea at the time...actually this caused the dea to form in the first place

Robert on October 2nd, 2018 - 8:11pm

(https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-238289)

Hell yes we must keep going its going to get ugly of course ...lots of money at stake for our old Politicians...

REPLY

inspiredbymany on September 27th, 2018 - 5:38pm

(https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237638)

Truth!

REPLY

Kevin Tompkins on September 28th, 2018 - 6:47am

(https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237731)

Word. It's a shame that greed and corruption will ruin something beautiful and pure as "we" know it

Ex. 26

REPLY

Andre Tate on September 28th, 2018 - 8:26am
(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237746>)

Tue..Did youvknow that GW Pharmaceutical is own by Bayer..
Im an Independent Cannabis researcher who created the 1st
Cannabis inhaler..Not CBD inhaler..
and found research/ patent. From 1997...that revealed
that..GW Pharma was on CBS 60 minutes several times over
the past 5 years pretending to be some Private Biz hidden in
The England Country side

REPLY

Rebecca (<http://www.essencesoflife.org>) on September 28th, 2018 - 11:56am (<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237776>)

Eric is right on the money (sic) for sure as this isn't the step we
(aromatherapist) want as they are putting cannabis into the
hands of big pharma and asking them to control it not the
cannabis industry and assuring that the feds make their money
off this again like alchohol and drugs. This is a step in the
wrong direction. They know this and think this industry is going
to be excited by this move, but instead we are educated in the
ways of the system and those of us who know cannabis is the
health answer for so many illnesses, we will continue to chip
away at the "system" to bring people wellness. If only cannabis
could configure our brains to think alike there might be hope
for both the insurance industry and the medical world of
hospitals, doctors and clinics. Patients are suffering and dying
at the hands of these "so called professionals" of healthcare
and big pharma is facilitating that death is the result not
healing or curing. We need a conscious raising in this country
and sooner than later.

REPLY

Eric on September 28th, 2018 - 2:22pm
(<https://mjbizdaily.com/dea-moves-cbd-medicines-off-schedule-1-a-limited-expansion-of-cannabis-access/#comment-237788>)

Ex. 27

11/19/2018

2018 Farm Bill: What to watch for - from 6 hemp industry insiders

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subject=%20&body=%20<https://hempindustrydaily.com/2018-farm-bill-what-to-watch-for-hemp-industry%2F>



Hemp farmers nationwide are preparing for harvest, but they're also keeping a close eye on Washington DC. Here are some reasons why:

EX-31

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which could either

OK

remove hemp from the Controlled Substances Act or revive a prohibition on growing it.

It's up to 56 lawmakers who will start work Wednesday to hammer out differences between the two bills that passed the House and Senate.

The 2014 Farm Bill – which ushered in the modern hemp industry by allowing states to experiment with pilot projects in hemp production – expires Sept. 30.

Congress must either pass a new Farm Bill or extend the current one – or the bill expires. (Outright expiration of the Farm Bill is extremely unlikely, however; the Farm Bill includes authorization for the Supplemental Nutrition Assistance Program and a laundry list of other programs important to American agriculture.)



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[MID=172085&plid=850095&setID=300425&channelID=0&CID=0&banID=519637041&PID=0&textadID=\(](https://adbutler-fermion.com/redirect.spark?MID=172085&plid=850095&setID=300425&channelID=0&CID=0&banID=519637041&PID=0&textadID=()
Forty-one states have authorized hemp production, and the stakes are high for the entire nascent hemp industry.

Adopting the Senate language around hemp would remove the plant from the Controlled Substances Act along with any requirement that hemp be grown as part of a pilot project. In the House version, however, there's no mention of expanding or even continuing the hemp experiment.

EX.32

Hemp Industry Daily asked six leaders in the industry what they'll be watching as Farm Bill negotiations enter the final lap:



Jonathan Miller

Jonathan Miller, attorney, U.S. Hemp Roundtable: I will be watching for something that has nothing to do with hemp: the work requirements for the food stamp program.

That's where the crux of the debate is going to be. A number of House Republicans are really pushing for stringent work requirements, and that's a no-go for most, if not all Democrats. So that could tie everything up.

We still feel good about the Farm Bill passing, and that hemp will be in there. It's fantastic that Mitch McConnell (Senate Majority Leader and sponsor of the hemp expansion) is on the conference committee. There are opponents to hemp in the House, but there's no one kicking and screaming.

We're feeling very, very good that once a Farm Bill is passed, it will include hemp.

Colleen Keahey Lanier, executive director, Hemp Industries Association: I want to see how this affects the states. A lot of the states are just now starting to make hemp regulations, and this is a moving target. What is the new Farm Bill going to require?



Colleen Keahey Lanier

I was chosen to be one of the committee members for the Arizona advisory commission for the hemp program.

This was passed just this spring, and so we're really trying to figure out what changes are going to come if USDA has jurisdiction over this.

EX. 33

And states that already have established hemp programs, they're going to be really affected, too.

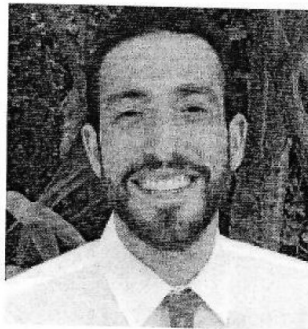


Bethany Gomez

Bethany Gomez, CBD analyst, Brightfield Group: If there's anything in there that would differentiate CBD from the rest of the plant, or saying we're going to allow hemp for fiber but not CBD, that would be pretty devastating to the industry.

I'm also looking to see if there is any language differentiating whether CBD can be used just like a supplement or whether it has to go through pharmaceutical channels. That will have significant implications for the hemp market overall.

Steven Turetsky, managing director, Shi Farms, Colorado: We're definitely watching the overall bill. But my opinion is, we aren't going to see any rollbacks of the hemp rules we have now.



Steven Turetsky

This crop is pervasive already. You have hundreds of acres growing in some states - thousands of acres in others.

I don't think this is going away. States are really interested in this succeeding. Farmers who are seeing decreasing profit margins every year are looking for a new crop as a hedge.



Michael Brubeck

Michael Brubeck, CEO, Centuria Natural Foods, Nevada: We've been cultivating hemp and manufacturing CBD products outside the United States since well before the 2014 Farm Bill was put into effect. So we'll survive, and the CBD industry will survive, no matter what happens.

Ex. 34

That said, we of course support seeing this 2018 Farm Bill give the hemp industry here a stronger foothold. Cultivation and manufacturing and distribution of hemp – it's all going to be expanded, and that's great news.

Joy Beckerman, president, Hemp Industries Association: We must be vigilant with regards to the proposed existing definition of hemp. That's what I'm really looking at.



Joy Beckerman

Do not mess with that definition (in the Senate version, which includes all parts of the plant), and do not add anything further in law that the USDA wants to see from the states.

We'd like to see every aspect of the Senate language moved over, except the felony provision (a ban on drug felons producing hemp).

That's not to say that this is a perfect bill. But this is a very big step forward.

(Interviews have been edited for length and clarity.)

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EX. 35

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4 comments on "2018 Farm Bill: What to watch for – from 6 hemp industry insiders"

Gailm Rutland on [September 7th, 2018 - 1:14pm](#)
(<https://hempindustrydaily.com/2018-farm-bill-what-to-watch-for-hemp-industry/#comment-216107>)

NO FELONS IN HEMP!
NO NEED.
NO RIGHT.
NO WAY!

[REPLY](#)

One Legacy Hemp on [September 8th, 2018 - 11:12am](#)
(<https://hempindustrydaily.com/2018-farm-bill-what-to-watch-for-hemp-industry/#comment-216112>)

Gailm Rutland:
Before Cannabis/Hemp became slightly more mainstream- it was considered a felony to possess even very small quantities of the substance, like a joint, for example. Evidence shows that the laws were (and still are) applied more severely to people of color. As a result of these facts- it is clear that they are heavily influenced by racism. It is sad- though not illegal- to be racist ; however, those in decision-making positions who are transparent in their efforts to force these ideologies into our laws have no business making them. Making it illegal for those with Cannabis-related felonies continues an agenda which has historically served to eliminate people of color from participating in economic opportunities made available by the

EX.36

federal government which could actually help transform their Communities into more desirable, profitable and healthy places to live. As long as the offense did not include violence or harm towards another person- no one with a prior Cannabis offense should be banned from participating in reaping the benefits of a tax system that every working person is required – or should be required- to participate in. This as well as the SNAP provision should be removed, and a clean bill passed. Cannabis or Hemp can help rescue our flailing nation in so many crucial ways. Thoughtful Reason should be employed here.

REPLY

One Legacy Hemp on September 8th, 2018 - 11:30am
(<https://hempindustrydaily.com/2018-farm-bill-what-to-watch-for-hemp-industry/#comment-216113>)

I think it quite shameful that certain groups of people are casually being thrown under the bus just so certain others can run with the bounty. We have the uncommon and unique opportunity to get this legislation done right the first time! There is no more time for piecemeal when it comes to fair and equitable implementation of our laws. We are ONE Nation- indivisible- and we must have the Courage to finally make this a reality for everyone; not just make false claims to make someone feel good. Enough with the insanity of racism.

REPLY

Susan Keymer on October 4th, 2018 - 9:11am
(<https://hempindustrydaily.com/2018-farm-bill-what-to-watch-for-hemp-industry/#comment-216334>)

Lots of confusing information out in the ether. When hemp cultivation receives a thumbs up from federal sources will a farmer be free to cultivate, or still be beholden to local municipality desires?

What a switch from colonial times when the founding fathers were required to grow hemp.

REPLY

Leave a Reply

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EX. 37

907 Compliance with Other Statutes

37 C.F.R. §2.69 Compliance with other laws.

When the sale or transportation of any product for which registration of a trademark is sought is regulated under an Act of Congress, the Patent and Trademark Office may make appropriate inquiry as to compliance with such Act for the sole purpose of determining lawfulness of the commerce recited in the application.

Use of a mark in commerce must be lawful use to be the basis for federal registration of the mark. *Gray v. Daffy Dan's Bargaintown*, 823 F.2d 522, 526, 3 USPQ2d 1306, 1308 (Fed. Cir. 1987); see 15 U.S.C. §§1051, 1127; 37 C.F.R. §2.69; *In re Midwest Tennis & Track Co.*, 29 USPQ2d 1386, 1386 n.2 (TTAB 1993); *In re Stellar Int'l, Inc.*, 159 USPQ 48, 50-51 (TTAB 1968). Thus, the goods or services to which the mark is applied, and the mark itself, must comply with all applicable federal laws. See *In re Pepcom Indus., Inc.*, 192 USPQ 400, 401 (TTAB 1976) ("In order for [an] application to have a valid basis that could properly result in a registration, the use of the mark [has] to be lawful, i.e., the sale or shipment of the product under the mark [has] to comply with all applicable laws and regulations. If this test is not met, the use of the mark fails to create any rights that can be recognized by a Federal registration."). In addition, "the fact that the provision of a product or service may be lawful within a state is irrelevant to the question of federal registration when it is unlawful under federal law." *In re Brown*, 119 USPQ2d 1350, 1351 (TTAB 2016).

Generally, the USPTO presumes that an applicant's use of the mark in commerce is lawful. Thus, registration will not be refused based on the absence of lawful use in commerce unless "either (1) a violation of federal law is indicated by the application record or other evidence, such as when a court or a federal agency responsible for overseeing activity in which the applicant is involved, and which activity is relevant to its application, has issued a finding of noncompliance under the relevant statute or regulation, or (2) when the applicant's application-relevant activities involve a *per se* violation of a federal law." *In re Brown*, 119 USPQ2d at 1351; see also *Kellogg Co. v. New Generation Foods Inc.*, 6 USPQ2d 2045, 2047 (TTAB 1988).

If the record in an application based on Trademark Act Section 1(a) indicates that the mark itself or the identified goods or services violate federal law, registration must be refused under Trademark Act Sections 1 and 45, based on the absence of lawful use of the mark in commerce. See 15 U.S.C. §§1051, 1127; 37 C.F.R. §2.69; *In re Stellar Int'l, Inc.*, 159 USPQ 48, 50-51 (TTAB 1968).

For applications based on Trademark Act Section 1(b), 44, or 66(a), if the record indicates that the mark or the identified goods or services are unlawful, actual lawful use in commerce is not possible. See *In re PharmaCann LLC*, 123 USPQ2d 1122, 1124 (TTAB June 16, 2017); *In re JJ206, LLC*, 120 USPQ2d 1568, 1569 (TTAB 2016); *John W. Carson Found. v. Toilets.com, Inc.*, 94 USPQ2d 1942, 1948 (TTAB 2010). Thus, a refusal under Trademark Act Sections 1 and 45 is also appropriate for these non-use-based applications, because the applicant does not have a bona fide intent to lawfully use the mark in commerce. See 15 U.S.C. §§1051, 1127; *In re PharmaCann LLC*, 123 USPQ2d at 1124; *In re JJ206, LLC*, 120 USPQ2d at 1569; *John W. Carson Found.*, 94 USPQ2d at 1948.

Under Trademark Rules 2.61(b) and 2.69, 37 C.F.R. §§2.61(b) and 2.69, examining attorneys may require additional information about the goods or services and inquire about compliance with federal laws to support a refusal or otherwise facilitate proper examination. See TMEP §814. Before issuing an inquiry or refusal pertaining to the lawfulness of goods or services, examining attorneys must obtain approval from their managing attorney or senior attorney, who may seek additional guidance from the Administrator for Trademark Policy and Procedure.

Ex 41

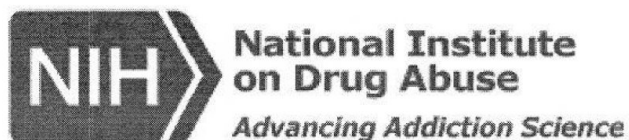
For the purpose of determining whether to issue an inquiry or refusal, the USPTO will not regard apparent technical violations, such as labeling irregularities on specimens, as violations. For example, if a package fails to show all required labeling information, the examining attorney should not take any action. Likewise, the USPTO does not routinely solicit information regarding label approval under the Federal Alcohol Administration Act or similar acts. However, if the record indicates that the mark itself or the goods or services violate federal law, an inquiry or refusal must be made. For example, evidence indicating that the identified goods or services involve the sale or transportation of a controlled substance or drug paraphernalia in violation of the Controlled Substances Act ("CSA"), 21 U.S.C. §§801-971, would be a basis for issuing an inquiry or refusal. *See In re JJ206, LLC*, 120 USPQ2d at 1569-70; *In re Brown*, 119 USPQ2d at 1351-53. Subject to certain limited statutory exceptions, the CSA makes it unlawful to manufacture, distribute, or dispense a controlled substance; possess a Schedule I controlled substance; or sell, offer for sale, or use any facility of interstate commerce to transport drug paraphernalia. *See* 21 U.S.C. §§ 812(b)(1)(B), 841(a)(1), 844(a), 863. Note that, regardless of state law, marijuana, marijuana extracts, and the psychoactive component THC remain Schedule I controlled substances under federal law and are subject to the CSA's prohibitions. 21 C.F.R. §1308.11; *see* U.S. Const. Art. VI, Cl. 2; *Gonzales v. Raich*, 545 U.S. 1, 27, 29 (2005); *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483, 491 (2001); *In re JJ206, LLC*, 120 USPQ2d at 1571; *In re Brown*, 119 USPQ2d at 1352. These prohibitions apply with equal force to the distribution and dispensing of medical marijuana. *In re PharmaCann LLC*, 123 USPQ2d at 1126.

When refusing registration, the examining attorney must indicate the particular law that is violated by the mark or the identified goods or services.

If, in response to a requirement for information or a refusal, the applicant indicates that the relevant goods or services comply with federal law, but there is extrinsic evidence indicating that the goods or services do not, in fact, comply with federal law, the examining attorney must refuse registration (or maintain the prior refusal), citing the relevant extrinsic evidence.

See TMEP §1205 regarding refusal of registration of matter that is protected by a statute or convention.

Ex 42



[Home](#) » [Publications](#) » [DrugFacts](#) » [Marijuana](#)

Marijuana

Revised June 2018

What is marijuana?

Marijuana refers to the dried leaves, flowers, stems, and seeds from the *Cannabis sativa* or *Cannabis indica* plant. The plant contains the mind-altering chemical THC and other similar compounds. Extracts can also be made from the cannabis plant (see "[Marijuana Extracts](#)").

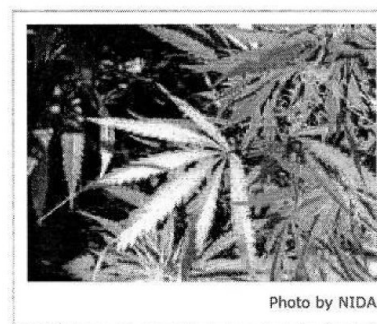


Photo by NIDA

Marijuana is the most commonly used illicit drug in the United States.¹ Its use is widespread among young people. In 2015, more than 11 million young adults ages 18 to 25 used marijuana in the past year.¹ According to the [Monitoring the Future](#) survey, rates of marijuana use among middle and high school students have dropped or leveled off in the past few years after several years of increase. However, the number of young people who believe regular marijuana use is risky is decreasing.²

Legalization of marijuana for medical use or adult recreational use in a growing number of states may affect these views. Read more about marijuana as medicine in our [DrugFacts: Marijuana as Medicine](#).

How do people use marijuana?

People smoke marijuana in hand-rolled cigarettes (joints) or in pipes or water pipes (bongs). They also smoke it in blunts—emptied cigars that have been partly or completely refilled with marijuana. To avoid inhaling smoke, some people are using vaporizers. These devices pull the active ingredients (including THC) from the marijuana and collect their vapor in a storage unit. A person then inhales the vapor, not the smoke. Some vaporizers use a liquid marijuana extract.



Photo by ©Shutterstock/Stephen Orsillo

Ex 43

People can mix marijuana in food (*edibles*), such as brownies, cookies, or candy, or brew it as a tea. A newly popular method of use is smoking or eating different forms of THC-rich resins (see "[Marijuana Extracts](#)").

Marijuana Extracts

Smoking THC-rich resins extracted from the marijuana plant is on the rise. People call this practice *dabbing*. These extracts come in various forms, such as:

- *hash oil* or *honey oil*—a gooey liquid
- *wax* or *budder*—a soft solid with a texture like lip balm
- *shatter*—a hard, amber-colored solid

These extracts can deliver extremely large amounts of THC to the body, and their use has sent some people to the emergency room. Another danger is in preparing these extracts, which usually involves butane (lighter fluid). A number of people have caused fires and explosions and have been seriously burned from using butane to make extracts at home. ^{3,4}

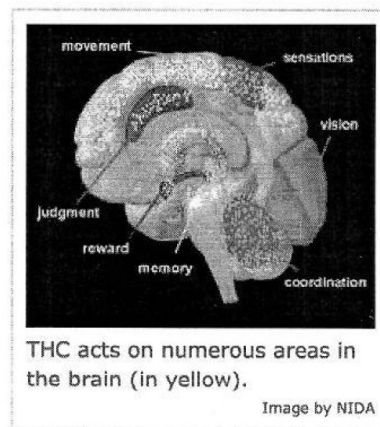
How does marijuana affect the brain?

Marijuana has both short-and long-term effects on the brain.

Short-Term Effects

When a person smokes marijuana, THC quickly passes from the lungs into the bloodstream. The blood carries the chemical to the brain and other organs throughout the body. The body absorbs THC more slowly when the person eats or drinks it. In that case, they generally feel the effects after 30 minutes to 1 hour.

THC acts on specific brain cell receptors that ordinarily react to natural THC-like chemicals. These natural chemicals play a role in normal brain development and function.



Marijuana overactivates parts of the brain that contain the highest number of these receptors. This causes the "high" that people feel. Other effects include:

- altered senses (for example, seeing brighter colors)
- altered sense of time
- changes in mood

Ex 44